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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MUTUAL PHARMACEUTICAL
COMPANY, INC., et al.,

Plaintiffs,

v.

WATSON PHARMACEUTICALS,
INC., et al.,

Defendants.

FILED UNDER SEAL

Civil Action No.
09-5421(GEB)(TJB)

**DECLARATION OF NISHAN
KOTTAHACHCHI IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO THE
MOTION FOR SUMMARY
JUDGMENT FILED BY
DEFENDANT WEST-WARD
PHARMACEUTICAL CORP.**

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I, Nishan Kottahachchi, declare and state as follows:

1. I am an attorney licensed to practice law in the State of California and the District of Columbia, and am admitted *pro hac vice* in this matter before this Court. I am an associate in the law firm of Cooley LLP, attorneys of record in this matter for Plaintiffs Mutual Pharmaceutical Company, Inc., AR Scientific, Inc., and AR Holding, Inc. (collectively “Plaintiffs”). I have personal knowledge of the facts set forth in this Declaration, and if called upon to testify I could and would testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of a page from the United States Food and Drug Administration (“FDA”) website titled *Guidance for FDA staff and Industry: Marketed Unapproved Drugs—Compliance Policy Guide*, publicly available at <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm070290.pdf>, and last viewed on August 20, 2010.

3. Attached hereto as Exhibit B is a true and correct copy of the FDA warning letter to Sunrise Pharmaceutical, Inc., publicly available on the FDA’s website at <http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm197966.htm> and last viewed on August 20, 2010.

4. Attached hereto as Exhibit C is a true and correct copy of the FDA’s warning letter to Concord Laboratories, Inc., publicly available on the FDA’s website at <http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2006/ucm075988.htm> and last viewed on August 20, 2010.

5. Attached hereto as Exhibit D is a true and correct copy of the FDA’s warning letter to Defendant Vision Pharma LLC, publicly available on the FDA’s website at

<http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm212242.htm>

and last viewed on August 20, 2010.

6. Attached hereto as Exhibit E is a true and correct copy of a page from the FDA website titled *National Drug Code Directory*, publicly available at <http://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm>, and last viewed on August 20, 2010.

7. Attached hereto as Exhibit F is a true and correct copy of a page from the FDA's website titled *FDA Acts to Improve Drug Safety and Quality*, publicly available at <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2006/ucm108665.htm>, and last viewed on August 20, 2010.

8. Attached hereto as Exhibit G is a true and correct copy of a page from the FDA's website titled *Questions and Answers About FDA's Enforcement Action Against Unapproved Injectable Colchicine Products*, publicly available at <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/EnforcementActivitiesbyFDA/SelectedEnforcementActionsonUnapprovedDrugs/ucm119642.htm>, and last viewed on August 20, 2010.

9. Attached hereto as Exhibit H is a true and correct copy of Defendant West-Ward Pharmaceutical Corp.'s Responses and Objections to Plaintiff Mutual Pharmaceutical Company, Inc.'s First Set of Requests for Admission.

10. Attached hereto as Exhibit I is a true and correct copy of the Objections and Responses of Plaintiffs Mutual Pharmaceutical Company, Inc., AR Scientific, Inc., and AR Holding Company, Inc. to Defendant West-Ward Pharmaceutical Corp.'s First Set of Requests for Admission.

11. Attached hereto as Exhibit J is a true and correct copy of Plaintiff Mutual Pharmaceutical Company, Inc.'s Objections and Responses to Defendant West-Ward Pharmaceutical Corp.'s First Set of Interrogatories.

12. Attached hereto as Exhibit K is a true and correct copy of Second Supplemental Responses of Plaintiffs Mutual Pharmaceutical Company, Inc., AR Scientific, Inc., and AR Holding Company, Inc. to Defendant West-Ward Pharmaceutical Corp.'s First Set of Interrogatories.

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16. Attached hereto as Exhibit O is a true and correct copy of a page from the FDA website titled *Single-Ingredient Oral Colchicine Video*, publicly available at <http://www.fda.gov/Drugs/ResourcesForYou/HealthProfessionals/ucm211975.htm>, and last viewed on August 23, 2010.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Washington, District of Columbia on August 23, 2010.

/s/ Nishan Kottahachchi

NISHAN KOTTAHACHCHI